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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,664	09/17/2001	John R. Ramun	2005-011339	9081

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Richard L Byrne  
700 Koppers Building  
436 Seventh Avenue  
Pittsburgh, PA 15219-1818

EXAMINER
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BATSON, VICTOR D

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 09/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/936,664

Applicant(s)

RAMUN, JOHN R.

Examiner

Victor Batson

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17-34 is/are allowed.
- 6) ☒ Claim(s) 1-8, 11, 13 and 14 is/are rejected.
- 7) ☒ Claim(s) 9, 10, 12, 15 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 September 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the combination bucket and three-tine grapple (claim 4), **and combination** bucket and four-tine grapple (claim 5) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 3,4 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification does not disclose a three-tine grapple or four-tine grapple that includes "at least one bucket" as set forth in claims 4 & 5, which depend from claim 2.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,2,3,6,7,8, are rejected under 35 U.S.C. 102(b) as being anticipated by Ramun (4,799,852).

Ramun discloses a demolition equipment system comprising a plurality of equipment bases, and a plurality of claw tines 21 as shown in figure 5 and described in the specification. Concerning claim 3, bucket 14 is considered one claw tine, and the combination of parallel tines 21 is considered the opposing tine.

4. Claims 1,2,3,4,5 as best understood are rejected under 35 U.S.C. 102(e) as being anticipated by Ramun (4,799,852).

Ramun discloses a demolition equipment system comprising a plurality of equipment bases, and a plurality of claw tines 50, including four claw tines directed toward each other and positioned 90 degrees apart. Kirkpatrick et al. further teaches that it is known to form a grapple with 3 tines (col 1 lines 16-18).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 11,13,14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ramun (4,799,852).

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Ramun discloses a demolition equipment system as disclosed previously, but lacks specifying that the rotation of the claw tine body between the open position and the closed position is at least 75 degrees.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the demolition equipment system of Ramun with the claimed claw rotation range or at least 75 degrees, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Similarly, concerning the claimed ranges set forth in claims 13,14, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the demolition equipment system of Ramun with the claimed range, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

#### ***Allowable Subject Matter***

6. Claims 9,10,12,15,16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 17-34 are allowed.

#### ***Response to Arguments***

The examiner notes that the description of the invention set forth in applicant's arguments (pages 11 & 12) have been read and understood. It is understood that

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applicant's invention comprises equipment bases in combination with claw tines to form a distinct and separate bucket and distinct and separate grapple where the grapple may be a two-, three-, or four-tine grapple, however applicant's claims do not reflect this. It is noted that any dependent claim inherently contains all the structure of the claim(s) that it depends from. Therefore since claims 3-5 depend from claim 2, which depends from claim 1, claims 3-5 each include all the structure set forth in claims 1 & 2. Since claim 2 clearly sets forth "at least one bucket", claims 3-5 also include "at least one bucket". Therefore, applicant's arguments regarding the drawing objections and the U.S.C. 112, first paragraph rejection, are not persuasive.

Applicant argues that the Ramun patent lacks a separate and distinct demolition equipment unit and that there is no teaching or suggestion of a plurality of equipment bases with each equipment base forming at least a part of a separate and distinct demolition equipment unit as in the present claimed invention. Applicant's arguments however are more limiting than the claims themselves. For example, applicant does not define the structure required to make up the equipment base. Therefore, as set forth in the rejection, Ramun and Kirkpatrick et al. are considered to have equipment bases that meet the broad limitation of equipment bases.

Similarly regarding applicant's arguments that the Kirkpatrick patent does not disclose the construction of a demolition equipment system forming separate and distinct equipment units incorporating the same times. Applicant's arguments are more limiting than the claims themselves, and the use of two, three or four tine grapples could each be considered separate and distinct equipment units. The examiner notes that

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although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant argues that the claw tine of Ramun 852, does not have a total angular rotation of at least 75 degrees, however Ramun '852 does specify this, and figure 1 appears to show a rotation of approximately 77 degrees. The examiner disagrees, as applicant has not disclosed that the claimed limitations provide any unexpected results or solves any stated problem, and it appears as if the limitations are an optimization of the prior art claw.

Applicant's arguments regarding claims 9,12,15,31 are persuasive.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Batson whose telephone number is (703) 305-6356. The examiner can normally be reached on Monday through Friday (except Wednesday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Will can be reached on (703) 308-3870. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1115.

A handwritten signature in black ink that reads "Victor Batson". The signature is fluid and cursive, with the first and last names being clearly legible.

Victor Batson  
Primary Examiner  
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